

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TIMOTHY GUSLER,

Plaintiff,

**V.**

MATTHEW FISCHER, SALVATORE GUERRERI,  
PETER J. LISTRO ASSOCIATES, LTD., UNISAR, INC.,  
AVITA CORPORATION, TARGET CORPORATION,  
TOYS "R US, INC., AMAZON.COM, INC.,  
WAL-MART STORES, INC., AND CHELSEA &  
SCOTT, LTD., d/b/a ONESTEP AHEAD,

Defendants.

07 CV 9535 (RWS)

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, defendant Salvatore Guerrieri will move this Court, in the United States Courthouse, 500 Pearl Street, New York, NY 10007, at such time as may be set by the Court, for an order: (a) dismissing the First, Fifth and Sixth Causes of Action in Plaintiff's Complaint, pursuant to Fed. R. Civ. P. 12(b)(6), and upon consent of the Court, 56, for failure to state a claim upon which relief can be granted and pursuant to Fed. R. Civ. P. 12(b)(1) for lack of subject matter jurisdiction; and (b) granting costs and attorney fees pursuant to 17 U.S.C. § 505.

Respectfully submitted,

GOTTLIB, RACKMAN & REISMAN  
Attorneys for Defendant Salvatore Guerrieri  
Michael I. Rackman (MR 2142)  
Jeffrey M. Kaden (JK 2632)  
Yuval H. Marcus (YM 5348)  
270 Madison Avenue  
New York, New York 10016  
(212) 684-3900

Date: New York, New York  
January 8, 2008

By: /s/ Yuval H. Marcus  
Yuval H. Marcus (YM 5348)